

SMALL BUSINESS TRAINING FOR CONTRACTING PROFESSIONALS

HQ, U.S. Army Contracting Agency

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MISSION, VISION AND GOALS

Mission

Develop and implement strategies that provide maximum procurement opportunities to small businesses while supporting the ACA in executing the Army's contracting mission that supports the warfighter.

Vision

A premier group of forward thinking acquisition professionals that provides quality customer service to the small business community and promotes teaming between internal and external customers.

10 Goals – Roadmap to Success!

1. Lead a Small Business Program that promotes continuous improvement, identify and recommend contracting opportunities for small businesses including all subcategories of small businesses and Historically Black Colleges and Universities/Minority Institutions (HBCU/MIs) in support of the ACA mission.

2. Develop, implement, monitor and adjust Small Business Program Performance Improvement Initiatives. Develop and implement a Small Business Program Plan.

- 3. Exercise ACA primary staff responsibility for distributing assigned targets for Small Business Program awards. Monitor progress and provide guidance/assistance to field personnel in support of subordinate command and ACA goal achievement.**
- 4. Direct targeted outreach efforts to identify small businesses and HBCU/MIs, assist them in competing for requirements in the ACA, and improve program performance in specific categories. Participate in conferences, Small Business fairs and other functions that serve as forums for advocating the Program.**
- 5. Conduct subordinate Small Business Office program management reviews on a regular basis. Make recommendations for improvement as appropriate.**
- 6. Ensure that the Director, ACA is kept informed about issues affecting the ACA Small Business Program at least quarterly.**
- 7. Promote early participation by Small Business Specialists and Small Business Administration Procurement Center Representatives with Program Executive Officers, Program Managers, Directors of Contracting, Buyers, and Technical Personnel through training and education.**
- 8. Review acquisition strategies and plans. Ensure, as required, that appropriate acquisitions include a**

request for a Small Business plan. Ensure that aggressive market research is conducted, and participate as necessary to ensure that Small Business sources are identified and provided maximum opportunity to participate.

9. Review subcontracting plans and recommend aggressive strategies for maximizing small business opportunities. Monitor enforcement of subcontracting plans.

10. Encourage employee growth throughout the ACA Small Business organization by identifying and promoting education, training and other learning opportunities. Facilitate coordination and information sharing among field offices and encourage teamwork.

ACA'S SMALL BUSINESS STAFF

HQ ACA ASSOCIATE DIRECTOR FOR SMALL BUSINESS – Suellen Jeffress

Manages ACA's small business program to include strategic planning, personnel and budget resources, management reviews, program plans and training.

HQ ACA DEPUTY ASSOCIATE DIRECTOR FOR SMALL BUSINESS – Alice Williams-Gray

Supports the HQ ACA Associate Director for Small Business in managing the ACA's Small Business Program.

52 ACA Field activity full-time or part-time SADBUS (Per DoDD 4205.1, E2.1.5, contracting activities whose total annual purchases with U.S. business concerns (large and small) exceed \$100M are required to have a full-time SADBUS.)

SMALL BUSINESS PROGRAMS WITH SET-ASIDE AUTHORITY

- **Section 8(a)**
- **HUBZONE**
- **SDVOSB**
- **SMALL BUSINESS (EXCEPT FOR THE SMALL
BUSINESS COMPETITIVENESS
DEMONSTRATION PROGRAM
FAR 19.10)**
- **HBCU/MI**

DETERMINATION TO MAKE AN ACQUISITION A SET-ASIDE

- **Are there two or more responsible companies?**

**Market Survey (to include sources sought
announcements if applicable)**

Previous History

**CCR Search using Dynamic Small Business Search
Competitive in Terms of Price, Qualifications, and
Delivery**

- **Optimum word is responsible:**

Financial capability – revenue

Supplies or Services provided

Past Performance

**NOTE: Small Businesses/HBCU/MI's must
perform 50% of the cost of contract performance
incurred for personnel of the concern for services;
15% for general contractors; 25% for specialty
trade contractors; 50% for supplies (other than
procurement from a nonmanufacturer of such
supplies) not including the cost of materials. See
FAR Part 52.219-14.**

CONTRACTING WITH SBA UNDER THE 8(a) **PROGRAM**

Definition: A small firm that is at least 51% owned, operated and managed on a daily basis by one or more socially and economical disadvantaged US citizens. The designated groups are:

African-Americans
Hispanic Americans
Native Americans
Asian Pacific Americans
Subcontinent Asian Americans
Others as defined by the SBA (case-by-case basis)

And, the initial eligibility net worth cannot exceed \$250,000, excluding equity in the firm or primary residence; for continued 8(a) eligibility after admission to the program, net worth must be less than \$750,000. (Note: There are specific rules for Alaskan Native individuals.)

The Small Business Administration administers the 8(a) program. The program is a two-stage (developmental and transitional) program. The 8(a) concern stays in the program for 9 years. Caution – although the company can stay in the program for 9 years the company may not be classified as a small

business based on its revenue and/or number of employees (size standard) for the NAICS utilized for an individual acquisition.

- **No synopsis required**
- **Sole source to one 8(a) firm if:**

Under \$3M for services or

Under \$5M for manufacturing

(These thresholds do not apply to 8(a) concerns owned by Alaskan Native Corporations, Native American Indian Tribes or Native Hawaiian Organizations – sole source awards can be made to these concerns in excess of the above competition thresholds.)

- **Does not apply to orders placed against GSA schedules/contracts**
- **Offering letters must be sent to SBA for both sole source 8(a) and competitive 8(a) acquisitions unless the estimated value of the acquisition is under \$100,000**
- **Offering letters for supply and service acquisitions should be sent to the SBA district office serving the area where the contracting office is located unless**

the contracting officer is name requesting a specific 8(a) concern which is located in another SBA district. If so, the offering letter should be sent to the district office where the concern is located
Offering letters name requesting Alaska Native Corporations 8(a) concerns should be submitted to the SBA's Anchorage District Office. Offering letters for construction should be sent to the SBA district office serving the area where the work is to be performed.

- Award is based on a “fair market value”. In determining fair market value the IGCE, previous buys, market surveys of similar buys, DCAA review, etc., may be utilized**
- Process – offering letter, acceptance from SBA, solicitation, evaluation, determination and award**
- In negotiated 8(a) competitions, before award, an eligibility determination shall be requested from the SBA for the successful offeror**
- SBA requires copies of Negotiation Memorandums and contracts unless under \$100,000. Only a copy of the order is required to be sent if under \$100,000**
- A copy of all offering letters and acceptance letters from SBA must be submitted to the small business specialist upon receipt**

HUBZONES

PURPOSE – The purpose of the Historically Underutilized Business (HUBZone) Program is to provide federal contracting assistance for qualified small business concerns located in historically underutilized business zones as identified in the 2000 Census to:

- **Increase employment opportunities**
- **Stimulate capital investment in those areas**
- **Empower communities through economic leveraging**

(Note: HUBZone tracts will remain unchanged until the 2010 Census; new HUBZone data available approximately 2012)

Be aware that HUBZones will be declared for areas surrounding BRAC'd installations for 5 years after final base closure.

QUALIFICATION REQUIREMENTS – The requirements to be qualified as a HUBZone small business concern are:

- **Must be a small business**

- **Must be owned and controlled only by US citizens, a Community Development Corporation, an Indian Tribe, Alaskan Native Corporation, Native Hawaiian Organization or Agricultural Cooperative**
- **The principle office of the concern must be located in a HUBZone; and**
- **At least 35% of the concern's employees must reside in any HUBZone at the time of proposal and award**

HUBZONE SET-ASIDES:

- **Must be synopsisized**
- **Sole source HUBZone awards must be accompanied with an approved J&A**
- **Two or more HUBZone small businesses are available and qualified**
- **Does not apply to GSA orders**
- **Is a set-aside program**
- **Statutory Target of 3%**

PRICE EVALUATION FACTORS

Shall be used in acquisitions conducted using full and open competition

Price evaluation preference shall not be used when:

- **Acquisitions are less than or equal to the Simplified Acquisition Threshold**
- **Price is not a selection factor**
- **All fair/reasonable prices are accepted**

The contracting officer shall give HUBZone small business concerns price evaluation preferences by adding a factor of 10% to all offers except offers from:

- **HUBZone small businesses**
- **Small Businesses**
- **Offers under Trade Agreements and international trade MOUs**

SERVICE DISABLED VETERAN OWNED SMALL BUSINESS (SDVOSB)

PURPOSE – The purpose of the SDVOSB Program is to provide Federal contracting assistance to SDVOSB concerns. A service disabled veteran has been determined by the Veterans Administration to be service disabled and has registered as a SDVOSB by SBA. A veteran with 0 – 100 % disability rating can be determined by the Veterans Administration to be service disabled.

Award contracts on the basis of competition restricted to SDVOSB concerns if there is a reasonable expectation two or more qualified SDVOSB concerns will submit offers for the contracting opportunity and that the award can be made at a fair market price; or

Award a sole source contract to a responsible SDVOSB concern if there is no reasonable expectation that two or more SDVOSB concerns will submit an offeror (anticipated contract price including options) will not exceed \$5M (for manufacturing) or \$3 million otherwise, and the contract award can be made at a fair and reasonable price.

SDVOSB (cont.)

- **Must be synopsisized**
- **Sole source SDVOSB set-asides must be accompanied with an approved J&A**
- **Does not apply to GSA orders**
- **Is a set-aside program**
- **Statutory Target of 3%**

SMALL BUSINESS SET-ASIDES

All simplified acquisitions are small business set-asides unless dissolved and the file so noted.

If there are two or more qualified small businesses, procurement must be set-aside for small business if the buy is above the simplified acquisition threshold.

The Competitiveness Demonstration Program (FAR 19.10) provides for unrestricted competition in five designated industry groups. The five groups are: (1) Construction; (2) Non-nuclear Ship Repair; (3) Architectural and Engineering Services; (4) Refuse Systems and Related Services; and (5) Landscaping and Pest Control. These groups are exempt from the small business set-aside program but FAR 19.1007(b)(2) states: “Acquisitions in the designated industry groups must continue to be considered for placement under the 8(a) program, the HUBZone Program and the Service-Disabled Veteran-Owned Small Business Procurement Program.”

Historically Black Colleges and Universities (HBCU) and Minority Institutions

- **Minority Institutions can include Hispanic Serving Institutions/Tribal Council Universities**
- **Department of Education has an annual**

**list of minority institutions (HBCU/MI)
that identifies a “Federally recognized list
of accredited HBCU/MI”**

OTHER SMALL BUSINESS PROGRAMS

- **Woman-Owned Small Business**

Not a set-aside program

- **Veteran-Owned Small Business**

Not a set-aside program

3% statutory target assigned

**(NOTE: ACA receives a 3% target for SDVOSBs
which includes VOSB)**

SUBCONTRACTING PLANS

When is a subcontracting plan required?

- **Contracts over \$500K (\$1M for construction) including all options**
- **Award to other than a small business (business entities organized for profit with a place of business in the US)**
- **Must be submitted to cover all items listed in AFARS Appendix DD and FAR 19.704 with realistic, challenging, and achievable goals. Goals are based on total subcontracting dollars not total contract dollars. Plan must be approved by the contracting officer before award. SDB goals that are proposed below 5% must be approved 1 level above the contracting officer. Subcontracting goals for HUBZone and Service Disabled Veteran-Owned Small Business must be the statutory 3%.**
- **Contractors required to submit reports semi-annually (Oct and Mar) (DD forms 294 and 295) to Contracting Officer with a copy to the small business specialist. A new automated system has been initiated but no Army implementation instructions have been issued. Hard copies are still being requested. It is the responsibility of the contracting officer to make sure the contractor is in compliance with the subcontracting plan**

(liquidated damages can be assessed against the contractor). The small business specialist can assist in the evaluation and administration of subcontracting plans.

When is a subcontracting plan not required?

- **From small business concerns**
- **For personal services contracts**
- **For contracts and modifications performed entirely outside of any state, territory or possession of the U.S. (Washington, D.C. and Puerto Rico are not exempt)**

SMALL BUSINESS INNOVATION RESEARCH PROGRAM

PURPOSE - The Small Business Innovation Research (SBIR) program funds early-stage research and development at small technology companies and is designed to:

Stimulate technological innovation

Increase private sector commercialization of federal R&D

Increase small business participation in federally funded R&D

Foster participation by minority and disadvantaged firms in technological innovations

Three-phase SBIR process:

- **Phase I Concept Feasibility**
- **Phase II Concept Development**
- **Phase III Move products from lab to marketplace (military or private sector)**

BUNDLING

- **Small Business Bundling.** Small Business Act and FAR Part 2.101(b), under the definition, bundling occurs when two or more requirements that had been previously procured under separate smaller contracts are consolidated into a solicitation for a single contract that is unsuitable for award to a small business concern.
- **Section 801 Bundling.** Section 801 of the 2004 Authorization Act as implemented at DFARS Part 207.170-2, defines consolidation of contract requirements to be when an agency uses a single contract or multiple award to satisfy two or more requirements that had been previously acquired under separate smaller contracts lower in cost than the total cost of the consolidated contract.
- **CICA Bundling.** In addition to the statutory and regulatory requirements, a doctrine has developed where the “bundling” of requirements may run afoul of the Competition in Contracting Act (CICA). GAO protests created this challenge.
- **A benefits analysis in accordance with DOD Office of Small & Disadvantaged Business Utilization Benefit Analysis Guidebook must be completed and forwarded through headquarters to Department of the Army before consolidation (bundling) can occur. This analysis must include a discussion of “measurably substantial benefits.”**

FREQUENTLY ASKED QUESTIONS

- **Does FAR Part 19 apply to Basic Ordering Agreements?**

Far Part 19.804-5 states

The contracting activity must offer, and SBA must accept, each order under a basic ordering agreement (BOA) in addition to offering and accepting the BOA itself.

SBA will not accept for award on a sole-source basis any order that would cause the total dollar amount of orders issued under a specific BOA to exceed the competitive threshold amount in FAR 19.805-1 (\$5M for manufacturing; \$3M for all other acquisitions).

- **Subcontracting as an evaluation factor?**

For all DoD negotiated procurements other than those based on the lowest price technically acceptable source selection process, DFARS 215.304 requires that the extent of participation of small businesses and historically black colleges or universities and minority institutions shall be addressed in source selection. DFARS 215.304 goes on further to provide examples of evaluation factors that may be included. Pursuant to the clause at FAR 52.219-9, it states that the offeror shall submit and negotiate a subcontracting plan, where applicable, that separately addresses subcontracting with small

business, veteran owned small business, service-disabled veteran-owned small business, HUBZone small business concerns, small disadvantaged business, and women-owned small business concerns.

- **Can a SBSA be converted to an 8(a) action?**

Title 13, Chapter 1, Part 124, Subpart A, Section 124.309 of the Small Business Act states that before a follow-on contract can be converted from a Small Business Set-aside to an 8(a) action the SBA must evaluate the effects on the current contractor to determine if by doing so the small business will be harmed, i.e. financially, etc.

Congressional Goals

	<u>Prime</u>	<u>Subs</u>
Small Business	23%	
SDB	5%	5%
Women-Owned	5%	
HUBZone	3%	3%
Veteran	3%	3%
HBCU/MI	5%	